REMARKS

Claims 1-22 are pending.

Claims 1-5 and 7-18 stand rejected.

Claim 6 is allowed and claims 19-22 are objected to.

Claims 1, 6 and 11 are independent.

Claim 1 is objected to for a minor informality. The Examiner requests that "selecting a frequency" be changed to "selecting a channel." Applicant has made the suggested amendment herein to claims 1 and 4. No new matter is entered.

Claim Rejections

Claims 1-2, 7, 10-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bullock et al. (2002/0049036) (hereinafter Bullock) in view of Gan et al. (US 7,027,418) (hereinafter Gan).

It is respectfully submitted that the combination of Bullock and Gan fail to teach or render obvious applicant's claimed features for at least the below reasons.

Claim 1, for example, recites: said base station including means for testing using wireless communication between said base station and said remote unit and selecting a channel providing a strongest reception from a plurality of available channels for wireless communication between said base station and said remote unit.

The Office Action agrees that this feature is not found in Bullock and points to Gan, col. 9, lines 37-43, col. 10 and col. 12 to show selecting a channel providing a strongest reception from a plurality of available channels (Office Action, page 3).

However, Gan only describes the master listening to the noise floor when the slave is not transmitting on the channel (col. 12, lines 33-35). Gan is attempting to pick a channel where the RSSI is low when the slave is not transmitting (col. 12, lines 35-41). In fact, the master may send a NULL packet to the slave to ensure that the slave will not transmit at the next slave transmission time slot (col. 12, lines 24-33) in order for the master to check to noise floor RSSI. In contrast, applicant claims selecting a channel providing a strongest reception.

In col. 10, Gan describes sending special test packets containing known contents in order to test the performance of communication channels. However, Gan is testing

and tracking the number of error bits that occur in the known content of the special test packets (col. 10, lines 17-42). Gan is selecting the channel with the fewest error bits. This is different from selecting the channel with the strongest reception, as claimed in claim 1.

Thus, contrary to the assertions in the Office Action, Gan does not describe selecting the channel with the strongest reception in cols. 10 and 12. Gan is looking for the channel with the least amount of error bits (col. 10) or the channel where the RSSI is low when the slave is not transmitting (col. 12). Then Gan is selecting the channel with the fewest error bits (col. 10) or with the signal having very low RSSI values (col. 12, lines 36-38). In contrast applicant claims selecting a channel providing a strongest reception.

Furthermore, Gan describes scanning channels where the slave is not transmitting. In contrast, applicant claims testing using wireless communication between said base station and said remote unit.

If Gan's master is scanning on channels where the mobile is not transmitting, as described in col. 12, then Gan does not disclose testing using wireless communication between said base station and said remote unit as claimed by applicant in claim 1. In other words, if the mobile is not transmitting (i.e., not communicating)the cited reference does not disclose the claimed communication of claim 1.

For at least the foregoing reasons, Gan fails to teach or suggest the features relied upon by the Office Action as rendering claim 1 obvious.

Independent claim 11, although different from claim 1, also includes similar features at least in steps (e) and (f) which are not found in or suggested by Gan. As pointed out above Gan teaches picking the weakest signal strength, which is opposite of the feature recited in claim 11.

Because the combination of Bullock and Gan teach features different from, and in fact, opposite to what is recited in the claims, it is respectfully requested that the rejection of independent claims 1 and 11 be withdrawn since a *prima facie* case of obviousness has not been established.

Each of the other rejected dependent claims 2-5, 7-10 and 12-18 are rejected by at least Bullock in combination with Gan. As pointed out above this combination of

references fails to teach each and every claimed feature of independent claims 1 and 11, and since claims 2-5 and 7-10 depend from claim 1, and claims 12-18 depend from claim 11, claims 2-5, 7-10 and 12-18 are patentable for at least the same reasons as claims 1 and 11.

Additionally, each of the dependent claims 2-5, 7-10 and 12-18 also includes additional distinguishing features not found in the cited combination of prior art.

For example, applicant's claim 2 includes comparing levels of test patterns communicated between said base station and said remote unit. The Office Action points to col. 12 of Gan; however, applicants respectfully submit this is not taught or suggested by Gan.

Gan is looking for the channel with the least amount of error bits (col. 10) or the channel where the RSSI is low when the slave is not transmitting (col. 12) and selecting the channel with the fewest error bits or with the signal having very low RSSI values (col. 12, lines 36-38).

There is no comparing of levels of test patterns suggested anywhere in Gan. Gan describes checking for bit errors in col. 10, but again, Gan is not checking the level of the bits. The Office has not established a *prima facie* case of obviousness for claim 2 because it has not identified the feature(s) of the cited reference which correspondingly teach or suggest comparing levels of test patterns.

Conclusion

In view of at least the foregoing remarks, it is respectfully requested the rejections be withdrawn. Passage of this case to allowance is earnestly solicited. Should the Examiner require anything further from Applicant, the Examiner is invited to contact Applicant's undersigned representative.

Any fee due with this paper, not already paid through an EFS-Web filing, may be charged to Deposit Account No. 50-3894. Any overpayment may be credited to Deposit Account No. 50-3894.

Respectfully submitted,

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